IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 22434 OF 2005

Date: 03.11.2005

BETWEEN:

Rajasthani Sanskritic Mandal

…. PETITIONER

And

The Visakhapatnam Municipal Corporation,

Rep. by its Commissioner, Visakhapatnam.

…. RESPONDENT

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 22434 OF 2005

ORDER:

The Rajasthani Sanskritic Mandal filed the instant writ petition seeking *Writ of Mandamus* declaring the action of the Visakhapatnam Municipal Corporation (VMC), the sole respondent herein, in increasing the water cess to Rs.2000/- through the impugned notice dated 28.2.2005 calling upon the petitioner to pay a sum of Rs.90,000/- towards arrears of water charges in 24 hours, and informing him about disconnection in the event of default, as illegal and arbitrary and violative of principles of natural justice.

The petitioner is a society registered under Societies Registration Act in 1976. It was formed with a view to promote, propagate and spread Rajasthani culture, literature and ideals among other things out side Rajasthan i.e., at Visakhapatnam in Andhra Pradesh. The petitioner owns building " Rajasthani Sanskritika Bhavan" bearing Door No.15-6-9 and is being run as a trust under a trust deed dated 11.4.1986. The petitioner claims to be a charitable institution.

The petitioner obtained water supply connection from VMC, vide assessment No.E.C.00238-1 with 3/4" j water supply tap. By the impugned notice dated 28.2.2005, the petitioner was asked to pay the water charges for 45 months at the

rate of Rs.2000/- for the period from 1.4.2001 to 31.12.2004. Though the said notice was served in February 2005, the petitioner chose to file the writ petition on 7.10.2005.

The learned counsel for the petitioner Akam Venkata Ramana, representing Sri K. Nasimham, learned counsel for the petitioner submits that the water charges payable were suddenly enhanced without any notice to the petitioner. When the petitioner did not pay the amount with effect from 1.4.2001, nothing prevented the VMC to take action, but suddenly the impugned notice is issued affecting disconnection of water supply. According to the learned counsel being a charitable institution the petitioner society is entitled for concessional rate of tariff for water charges and that the amount of Rs.2000/- per month is excessive.

At the stage of admission itself the learned Standing Counsel for VMC Sri N. Ranga Reddy submits that under Section 199 read with Section 202 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), only general tax cannot be levied on educational institution buildings of which are donated by the charitable institutions or Philanthropists or which are determining on the ground un-aided, and that as per sub-section (2) of Section 202, the petitioner society or its Bhavan cannot be treated as a charitable institution. He also placed before this Court a copy of the Gazette notification whereby and whereunder VMC notified new rates of charges for supply of water. He placed reliance on entry-2 dealing with water supply charges in the said Gazette notification, which would show that for commercial connections the minimum charges are Rs.2000/- per month.

The learned Standing Counsel also submits that the petitioner is using it's building as marriage hall and for commercial purposes and therefore, it cannot be treated as a building used for charitable purpose.

A look at the Gazette notification issued in the year 2001 would support the contention that the water supply charges were enhanced with effect from 1.1.2001 and such charges are fixed at Rs.2000/- per month in respect of commercial connections. Therefore, this Court does not fined any illegality in VMC demanding the water charges from 1.4.2001 to 31.12.2004 at the rate of Rs.2000/- per month. Insofar as the exemption claimed by the petitioner is concerned, the same is misconceived. Section 199 of the Act specifies, general tax, water tax, drainage tax, lighting tax and conservancy tax. Section 202 of the Act specifies that general tax shall be levied in respect of buildings except the buildings referred to in clause (a) to (d) of sub-section (1) of Section 202. A building, which is being used for trade or business, cannot be treated as a building for charitable purposes as per sub-section (2) of Section 202 of the Act. As no material is placed before this Court whether Rajasthani Sanskritic Bhavan is being used as a marriage hall on hire, this Court is not inclined to record any finding on this. However, under Section 202(1) of the Act, all buildings attract general tax and only exemption is granted in respect of general tax. Even the buildings, which fall under Section 202(1)(a) to (d), are not exempted from payment of other taxes including water tax. Further VMC is collecting water supply charges for the annual water supply and there is no provision under the Act, which prohibits such collection of water charges. This Court, however, hastens to

add that if the petitioner seeks exemption under any other provision of law, it can make a representation to appropriate authority. Insofar as this writ petition is concerned, the petitioner is not entitled for any relief.

The Writ Petition, with the above observations, is accordingly dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

3rd November, 2005

Js.